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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,894	06/29/2001	Manoel Tenorio	020431.0848	7075

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EXAMINER	
CHEUNG, MARY DA ZHI WANG	
ART UNIT	**PAPER NUMBER**
3621	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/895,894	TENORIO, MANOEL	
	Examiner	Art Unit	
	Mary Cheung	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/26/04;11/18/04;*02/16/05.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of the Claims

1. This action is in response to the RCE filed on January 14, 2005. Claims 1-34 are pending. Claims 1, 11, 21 and 31 are amended.

Response to Arguments

2. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

3. In response to the applicant's arguments about the 112 2nd paragraph rejections, examiner maintains her position and believes that the rejection is proper because the phrase "not substantially affecting" is indefinite description of the claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 1, 11, 21 and 31-34, the phrase "not substantially affecting" renders the claim indefinite because it is unclear how exactly the authorized use of data are not being affected.

The dependent claims 2-10, 12-20 and 22-30 are rejected for incorporating the errors of their respective base claims by dependency.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4, 11-14, 21-24 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Downs et al., U. S. Patent 6,226,618.

As to claims 1, 4, 11, 14, 21, 24 and 31, Downs teaches a system, a method and software for watermarking data associated with one or more products, comprising (column 7 line 41 – column 8 line 5 and Figs. 7-8):

a) Generate an algorithm for creating a particular pattern in data associated with one or more products available from one or more sellers (column 9 line15 – column 10 line 18; *specifically, "a particular pattern" corresponds to the process for packing content and metadata in Downs' teaching*), the data comprising one or more of product attribute values for each of the one or more products, seller attribute values for each of the one or more products, and product descriptions for each of the one or more products, the data being stored in one or more databases accessible to one or more buyer computers for search queries for data associated with certain of the products, the pattern facilitating identification of a copy of the data and not substantially affecting authorized use of the data by

the one or more buyer computers or users associated with the buyers computers (column 9 lines 15-32 and column 10 lines 4-18 and column 71 line 65 – column 71 line 48 and column 79 line 47 – column 80 line 5 and Figs. 1A-1D, 6);

b) Apply the algorithm to the data to create the particular pattern in the data (column 9 line15 – column 10 line 18 and Figs. 7-8).

As to claims 2, 12 and 22, Downs teaches the one or more databases comprise seller databases associated with a particular seller (column 42 line 65 – column 43 line 56).

As to claims 3, 13 and 23, Downs teaches the one or more databases comprise a shared data repository (Figs. 1A-1D, 6).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 5, 8, 15, 18, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., U. S. Patent 6,226,618 in view of Ogilvie, U. S. Patent 6,343,738.

As to claims 5, 15 and 25, Downs does not specifically teach the algorithm is a sifting function. However, Ogilvie teaches an algorithm is a sifting function (column 20 lines 8-23 and column 21 line 45 – column 22 line 9; *specifically, deleting every Nth character in Ogilvie's teaching is an example of "a sifting function"*). It would have been

obvious to one of ordinary skill in the art at the time the invention was made to allow the algorithm in Downs' teaching to include a sifting function for better protecting the products from unauthorized access.

As to claims 8, 18 and 28, Downs teaches storing ASCII characters (column 73 line 41-49). Downs does not specifically teach the pattern including a plurality of insertion, deletion, or modifications of printable ASCII characters in data according to a predefined arrangement. Ogilvie teaches the pattern comprises a plurality of insertion, deletion, or modifications of printable ASCII characters in data according to a predefined arrangement (column 20 lines 8-23 and column 21 line 45 – column 22 line 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the pattern in Downs' teaching to include a plurality of insertion, deletion, or modifications of printable ASCII characters in data according to a predefined arrangement as taught by for better protecting the products from unauthorized access.

10. Claims 6-7, 16-17 and 26-27 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable Downs et al., U. S. Patent 6,226,618 in view of Ogilvie, U. S. Patent 6,343,738 and in further view of Kuo et al., U. S. Patent 6,230,288.

As to claims 6-7, 16-17 and 26-27, Downs teaches storing ASCII characters (column 73 line 41-49). Downs does not specifically teach the pattern including inserting non-printable ASCII characters throughout the data according to pre-defined arrangement. However, Ogilvie teaches a pattern comprises a plurality of ASCII characters inserted throughout the data according to a predefined arrangement; and a particular set of ASCII characters appearing after each instance of a particular group of

characters in the data (column 20 lines 8-23 and column 21 line 45 – column 22 line 9). Furthermore, Kuo teaches inserting non-printable ASCII characters into a file (column 5 lines 5-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the pattern in Downs' teaching to include inserting non-printable ASCII characters as taught by Ogilvie and Kuo for better protecting the products from unauthorized access.

As to claims 32-34, Ogilvie teaches a system, a method and software for watermarking data associated with one or more products, comprising (column 7 line 41 – column 8 line 5 and Figs. 7-8):

c) Generate an algorithm for creating a particular pattern in data associated with one or more products available from one or more sellers (column 9 line15 – column 10 line 18; *specifically, "a particular pattern" corresponds to the process for packing content and metadata in Downs' teaching*), the data comprising one or more of product attribute values, seller attribute values, and product descriptions for each of the one or more products, the data being stored in one or more databases accessible to one or more buyer computers for search queries for data associated with certain of the products, the pattern facilitating identification of a copy of the data and not substantially affecting authorized use of the data by the one or more buyer computers or users associated with the buyers computers (column 9 lines 15-32 and column 10 lines 4-18 and column 71 line 65 – column 71 line 48 and column 79 line 47 – column 80 line 5 and Figs. 1A-1D, 6);

d) Apply the algorithm to the data to create the particular pattern in the data (column 9 line15 – column 10 line 18 and Figs. 7-8).

Downs does not specifically teach the pattern including inserting non-printable ASCII characters throughout the data according to pre-defined arrangement. However, Ogilvie teaches a pattern comprises a plurality of ASCII characters inserted throughout the data according to a predefined arrangement; and a particular set of ASCII characters appearing after each instance of a particular group of characters in the data (column 20 lines 8-23 and column 21 line 45 – column 22 line 9). Furthermore, Kuo teaches inserting non-printable ASCII characters into a file (column 5 lines 5-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the pattern in Downs' teaching to include inserting non-printable ASCII characters as taught by Ogilvie and Kuo for better protecting the products from unauthorized access.

11. Claims 9, 19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., U. S. Patent 6,226,618 in view of Ogilvie, U. S. Patent 6,343,738, U. S. Patent 6,343,738, and in further view of Berkland et al., U. S. Patent 4,648,047.

As to claims 9, 19 and 29, Downs modified by Ogilvie teaches applying a particular pattern in the data as discussed above. Downs modified by Ogilvie does not specifically teach the pattern comprises each instance of a particular group of characters in the data being underscored throughout the data. However, Berkland teaches inserting underscore function into a file (column 10 lines 17-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

allow the particular group of characters in the teaching of Downs modified by Ogilvie to be underscored throughout the data because this would provide sellers more choices with additional various patterns that can be added to the data so that the sellers' products can be better protected.

12. Claims 10, 20 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., U. S. Patent 6,226,618 in view of Astola et al., U. S. Patent 6,094,722.

As to claims 10, 20 and 30, Downs teaches determining if the copy of the data is authorized or not (column 7 line 41 – column 8 line 5). Downs does not specifically teach determining a first sum of numerical values of bytes representing the data stored in the one or more databases for later comparison with a second sum of numerical values of bytes representing data from another source to determine whether the data from the other source is a copy of the data from the one or more databases. However, this matter is taught by Astola as determining whether a file is original by comparing the sum of numerical byte values of the file with the checksum of the original data (column 1 lines 45-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Downs' teaching to include the feature of determining whether a data is original by comparing the sum of numerical byte values of the data with the checksum of the original data for quickly determining the source of the data.

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is 571-272-6705. The examiner can normally be reached on M-Th (10:00-7:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mary Cheung
Patent Examiner
Art Unit 3621
May 2, 2005